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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,967	05/08/2001	John P. Miller	F-107	2930

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EXAMINER

GIBSON, RANDY W

ART UNIT

PAPER NUMBER

2841

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/850,967

Applicant(s)

MILLER ET AL.

Examiner

Randy W. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2&3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-6, 9-14, 17-22, 25-28, 34-36, 38-40, and 44-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Hubler et al (U.S. # 6,265,675 B1). Hubler et al discloses the claimed invention including a base (51), a forward driving mechanism (4), a weighing mechanism (7) connected to the base & driving mechanism (Figure 5), a guide mechanism (612) with a plurality of baffles (6121), a normal force component (62), and a structural pillar (6113).
-

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 41, 42, 48, 49, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubler et al (U.S. # 6,265,675 B1) in view of Freeman et al (U.S. # 4,742,878). Hubler et al shows the claimed invention except for temporarily stopping the transport of a mail piece across the weighing station if the postal break point is within the margin of error of the weighing mechanism. However, it is well known in the art to take more time to weigh a item of post if the postal break point is within the margin of error of the weighing mechanism that the item is being transported across as shown by the example of Freeman et al (Col. 8, lines 34-49; Col. 9, line 65 to col. 11, line 2). It would have been obvious, therefore, to modify the control system of Hubler et al to temporarily stop the transport of a mail piece across the weighing station if the postal break point was within the margin of error of the weighing mechanism, as taught by Freeman et al, to increase accuracy without sacrificing throughput.

5. Claims 7, 15, 23, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubler et al (U.S. # 6,265,675 B1) in view of Tolson (U.S. # 5,326,938). Hubler et al discloses the claimed invention except for the load cell is located at the top of the scale pan supporting structure, which places the load cell's support surface above the center of gravity of the driving mechanism, instead of below it. However, it appears that placing the load cell at the

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bottom of the supporting structure, instead of at the top, would not have noticeably changed the operation of the device and would have been an obvious design choice to the ordinary practioner. See *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975); and, *MPEP* § 2144.04(VI)(C). This arrangement appears to be known in the art as shown by Tolson (Figures 4 & 5).

6. Claims 8, 16, 24, 31-33, 43, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubler et al (U.S. # 6,265,675 B1) in view of Tolson (U.S. # 5,326,938). Hubler et al discloses the claimed invention except they use one load cell instead of two. However, it has been held that a mere duplication of parts would have been obvious to the ordinary practioner unless there is evidence that some unexpected result is obtained. See *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960); and, *MPEP* §§ 716.01(c) & 2155.04(VI)(B). Furthermore, Tolson teaches that using two load cells to support a weighing conveyor was a known functional equivalent to an embodiment using just one load cell (Col. 4, lines 42-54), so it would have been obvious to the ordinary practioner to modify the device of Hubler et al to include two load cells. See *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982); and, *MPEP* §§ 2144.06 & 2144.07.

7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hubler et al (U.S. # 6,265,675 B1). The examiner takes official notice that the holding brackets with flat leaf springs for providing a normal force to the envelopes as they are being transported disclosed in the specification (p. 12) are known in the art and that it would have been obvious to the ordinary practioner to substitute conventional envelope holding brackets for the normal force component (62) of Hubler et al since they perform the same function of preventing an envelope from sliding

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off of the scale. See *Ryco, Inc. v. Ag-Bag Corp.*, 857 F.2d 1418, 8 USPQ2d 1323 (Fed. Cir. 1988); and, MPEP § 2144.03.

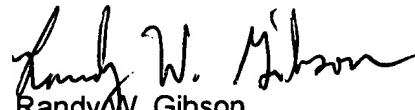
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.

May 1, 2003


Randy W. Gibson
Primary Examiner
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